THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 7242 of 1998

Dated: 13.06.2007

Between:

V. Subbamma

... Petitioner

AND

The Vice Chairman & Managing Director,
A.P. State Road Transport Corporation,
Musheerabad, Hyderabad and another.

... Respondents

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 7242 of 1998

ORDER:-

This writ petition is filed for a writ of mandamus to declare the action of the respondents in not appointing the petitioner to the post of Sweeper/Attender/Khalasi or any other suitable post as illegal and arbitrary and for a consequential direction to appoint him as Sweeper/Attender/Khalasi/Cleaner with immediate effect.

The petitioner's husband died in harness on 18.12.1997. The petitioner made an application on 09.02.1998 to the Executive Director, Zonal Workshop, APSRTC, Kadapa, seeking her appointment on compassionate grounds to any one of the posts viz., Sweeper/Attender/ Khalasi/Cleaner. The respondents replied to the said application on 28.02.1998 stating that there is no provision for employment for the post of Sweeper/Attender/Khalasi/ Cleaner as there was ban on recruitment in the corporation. The petitioner, however, was advised in the said communication to pay additional monetary benefit to be given to the spouse/children of the deceased employees.

Aggrieved by the inaction of the respondents in providing employment to the petitioner, she filed the present writ petition.

In the counter-affidavit filed by the Chief Law Officer,

APSRTC, it is averred that in view of the ban imposed on recruitment for the post of Sweeper/Attender, the Works Manager, Zonal Workshop, APSRTC, Kadapa, informed the same through his letter dated 28.02.1998 to the petitioner. It is stated that the Corporation issued circular No.50/97 dated 31.07.1997 extending the ban on direct recruitment except to the post of Driver Grade-II and Conductor Grade-II and that since the petitioner was not eligible for either of the posts, she was not provided with appointment on compassionate grounds.

As regards the instances given by the petitioner viz., Smt. D.Mahabubbi and Smt. M. Lakshmi Devi, who were appointed as cleaner and Khalasi, it is stated in the counter-affidavit that as vacancies existed at that time, they were provided with the employment. It is also stated that the Corporation is willing to pay monetary benefit to the petitioner in lieu of the provision for compassionate appointment.

Having heard Smt. Shesharajam, learned counsel for the petitioner and Sri V. Srimannarayana, learned counsel representing Sri P. Vinayak Swamy, Standing Counsel for APSRTC, I am of the view that the petitioner is not entitled to any relief in this writ petition.

As held by the Supreme Court in a catena of judgments, appointment on compassionate grounds is exception to Article 16(1) of the Constitution of India and that no person can claim appointment on compassionate grounds as of right. It is also held that unless the employer's scheme provides for such appointments, which are mainly intended to tide over the sudden crisis arising on account of the unexpected death of the employees, a person cannot claim appointment on compassionate

grounds. (see **Umesh Kumar Nagpal v State of Haryana**[1], **State of Haryana v Rani Devi**[2], **State of U.P. v Paras Nath**[3], **Punjab National Bank & others v Ashwini Kumar Taneja**[4] and **G.M. (D&PB) v Kunti Tiwari**[5]).

In view of the fact that there was a ban on direct recruitment of the persons to the categories of sweepers etc., to which the petitioner made an application, she was not provided with employment. I do not therefore see any illegality in the rejection of the petitioner's claim by the respondents. However, as provided for by the respondents, the petitioner is entitled to monetary compensation in lieu of the provision for compassionate appointment.

The writ petition is therefore disposed of with a direction to the respondents to provide monetary benefit to the petitioner as informed to her in letter dated 28.02.1998 of the Works Manager, Zonal Workshop, APSRTC, Kadapa.

Subject to the above observations, the writ petition is disposed of. No costs.

_____

C.V. NAGARJUNA REDDY, J

Date: 13.06.2007
ES

---

[1] (1994) 4 SCC 138
[2] (1996) 5 SCC 308
[3] (1998) 2 SCC 412
[4] (2004) 7 SCC 265
[5] (2004) 7 SCC 271